

January 14, 2010

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Mr. Delvin Dennis
Texas Department of Transportation
Houston District Engineer
7600 Washington Avenue
Houston, TX 77007

VIA EMAIL AND HAND DELIVERY

Re: San Jacinto River Waste Pits Superfund Site
Access to TxDOT Right-of-Way

Dear Mr. Dennis:

This letter is written on behalf of McGinnes Industrial Maintenance Corporation ("MIMC") and International Paper Company ("IP") to request access to construct a fence and improve and extend the existing site access road on the Texas Department of Transportation ("TxDOT") right-of-way ("ROW") located at the intersection of IH-10 and the San Jacinto River in Harris County. MIMC and IP have been identified by the US Environmental Protection Agency ("EPA") as Potentially Responsible Parties ("PRPs") for a federal Superfund Site described below that is located next to the ROW. A copy of the road and fence proposal and a map showing the proposed location of the access road and fence is attached hereto as Exhibit A. This proposal has been generally discussed with Rodney Concienne, manager of the Pollution Prevention and Abatement Program of TxDOT and Mr. Mike Alford of your office. Both Mr. Concienne and Mr. Alford informed me that I should send this proposal to you for your consideration.

The purpose of the fence is to prevent access to a federal Superfund Site, referred to as the San Jacinto River Waste Pits Superfund Site, located Northwest of the intersection of IH-10 and the San Jacinto River. A description of the Site obtained from EPA's website is attached hereto as Exhibit B. Although Harris County has attempted to limit access to the Site by placing various types of signs in the vicinity of the Site, Harris County officials report that the general public continues to use the Site for fishing, swimming and general recreation.

As shown on the attached map, we are requesting the use of the TxDOT ROW that is south of the Site. The reason we need to place the fence on the TxDOT ROW rather than the Site is that the ownership of the Site is in dispute and access has not been obtained at this point. Moreover, by placing the fence as shown on the attached map, the public will also not be able to access certain areas immediately adjacent to the Site where the public has reportedly been seen


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fishing and swimming. A strong desire exists among the PRPs, Harris County, EPA and others to construct the fence in the next couple of weeks so that access to the Site and immediately adjacent areas can be prevented. We need the access road to the site in order to begin remedial construction at the site.

As stated in the attached proposal, the fence will be 8 feet high with 3 strands of barbed wire along the top. The fence and access road will be paid for and maintained by the PRPs. It is currently unknown how long the fence and road will need to be in the ROW but it is anticipated that it will need to be in place for a number of years until the Site has been remediated. The proposed access road cross-section will most likely consist of a heavy woven geotextile placed on a prepared subgrade with an aggregate base coarse compacted above the geotextile.

Due to the desire of all involved to construct the fence and access road as soon as possible, we will make ourselves available at your convenience to answer any questions that you may have about the proposal. I will call you on Monday, January 18, 2010 to check on the status of your consideration of the proposal, and see if you would like to set up a meeting to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read "Albert R. Axe". The signature is fluid and cursive, with the first name "Albert" and last name "Axe" clearly legible.

Albert R. Axe, Jr.

ARA/ltn

Enclosures

cc: Dianna Noble, TxDOT Environmental Affairs Division Director (*Via email*)
Barbara Nann, EPA (*Via email*)
Stephen Tzhone, EPA Project Coordinator (*Via email*)
Phil Allen, EPA Project Coordinator (*Via email*)
Snehal Patel, Harris County Attorney's Office (*Via email*)
David Keith, Anchor QEA (Project Coordinator for PRPs) (*Via email*)
John Cermak, Baker Hostetler (Attorney for International Paper) (*Via email*)

EXHIBIT A



2113 Government Street
Building D, Suite 3
Ocean Springs, Mississippi
Phone 228.818.9626
Fax 228.818.9631
www.anchorqea.com

MEMORANDUM

To:	Andrew Shafer, MIMC Phil Slowiak, IP	Date:	January 14, 2010
From:	Wendell Mears	Project:	090557-01
Cc:	David Keith Al Axe		
Re:	San Jacinto River Waste Pits Superfund Site; Fence and Construction Access Road		

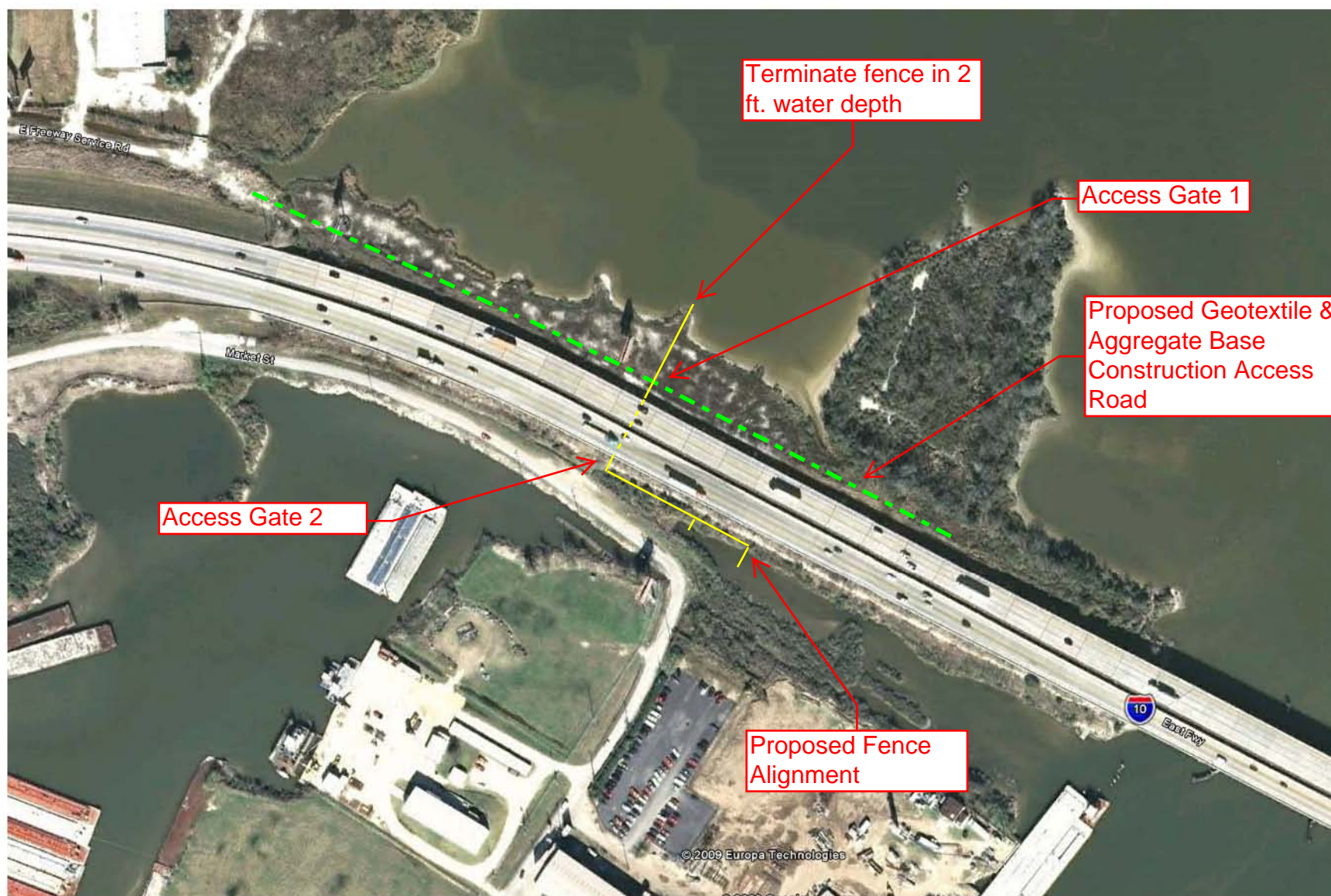
Based on our Site assessment on January 13, 2010, I have revised the fence alignment and provided the attached figure. I also included the location of the proposed construction access road.

The construction access road will consist of 6 to 12-inches of compacted aggregate or recycled materials conforming to TXDOT Spec 247 over a woven geotextile fabric. The subgrade will be prepared and sloped to drain, to provide all-weather access to the Site.

The fence will be specified as 8 foot tall 2-inch mesh (chain link) fabric, with top rails and line posts on 10-foot centers with concrete footings. Terminal posts will be trussed and braced. The access gates will be two 12-feet wide leafs, providing a 24 foot opening. Three strands of barbed wire on a pressed arm will be installed along the top of the fence and gates, making the completed system 9 feet tall. The fence alignment will follow the yellow line on the attached figure, running north to south under the I-10 bridges, then along the southern edge of the concrete pavement, terminating near a drainage culvert. Two shunts or access restrictors will be installed along the fence line, at the locations shown, to restrict access along the southern drainage route.

Attachment

WM/tlf

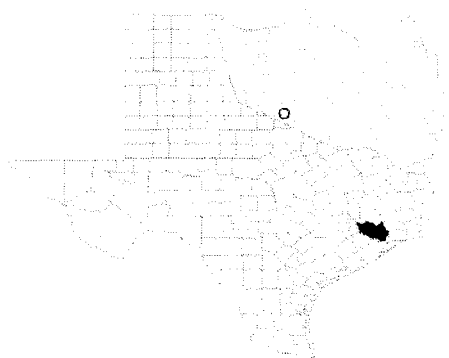


San Jacinto Waste Pits, Proposed Construction Access and Fence Layout

EXHIBIT B

SAN JACINTO RIVER WASTE PITS **Harris County, Texas**

EPA Region 6
EPA ID# TXN000606611
Site ID: 0606611



Contact: Stephen Tzhone (214) 665-8409
State Congressional District: 2 and 29
Updated: January 2010

Current Status

Remedial Investigation/Feasibility Study (RI/FS): The potentially responsible parties (PRPs): McGinnes Industrial Maintenance Corporation (MIMC) and International Paper Company (IPC), are jointly conducting an RI/FS under an EPA Unilateral Administrative Order (November 20, 2009).

Removal: EPA proposed an Administrative Order on Consent to PRPs to conduct a time critical removal action concurrently with the RI/FS. EPA and the PRPs are negotiating the terms of the final AOC. The PRPs have to the end of January 2010 to finalize the proposal.

Watershed Management/Permits: Due to the unique location of the Site within an area subject to frequent dredging, the EPA, USACE, and TCEQ are working together to implement watershed management solutions for dredging activities that may impact future Site cleanup. As of November 1, 2009, a permits evaluation process is in place for an area around the Site. The public announcement of this process can be found on the following websites:

EPA: www.epa.gov/region6/6sf/texas/san_jacinto/tx_san_jacinto_public_announcement_20091021.pdf

USACE: www.swg.usace.army.mil/pao/Docs/SanJacinto.pdf

TCEQ: www.tceq.state.tx.us/remediation/superfund/epa/sanjacpits

Benefits

Cleanup actions will address human health and ecological risks (see Health Considerations).

National Priorities Listing (NPL) History

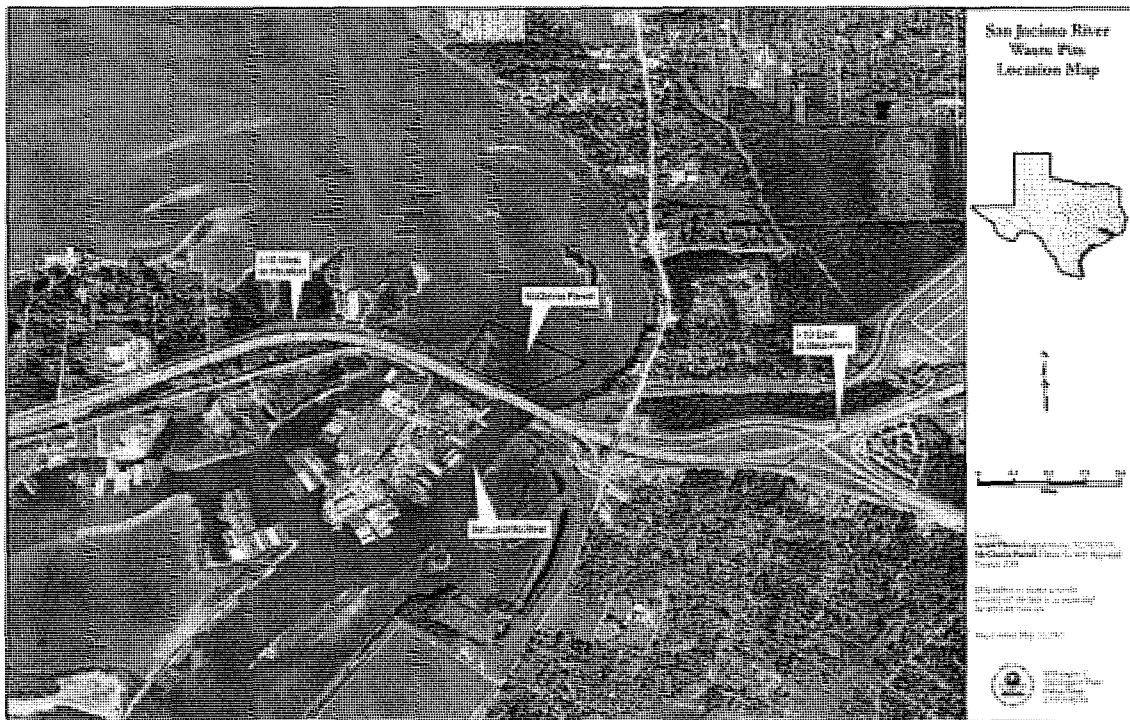
Proposal Date: 9/17/2007 (72 FR 53509)
Final Listing Date: 3/19/2008 (73 FR 14719)

Site Description

Location: The Site is in Harris County in the State of Texas. The Site itself has no specific street address. The Site is comprised of an area of land and an area of the San Jacinto River bottom, i.e., river sediment that is contaminated with certain hazardous materials from released waste paper mill sludge. The Site is located in an area where the Interstate Highway 10 Bridge crosses over the San Jacinto River. The Site is located east of the City of Houston between two unincorporated areas known as Channelview and Highlands.

The Site includes an abandoned 20-acre tract of land (Tract). Harris County Clerk Land Records document that Virgil C. McGinnes Trustee, is this Tract's current owner of record. This Tract is bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel. Virgil C. McGinnes is deceased.

Site Map



Wastes and Volumes

The primary hazardous substances documented at the Site are polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans.

Contaminants are documented to be entering the San Jacinto River from the Tract's disposal pit areas by direct observation and chemical analysis. A large portion of the Tract is continually inundated by the San Jacinto River and contaminated sediment within the Tract's disposal pit areas is in direct contact with the river water.

Dioxin concentrations as high as 41,300 parts per trillion have been found in samples collected from the Tract's disposal pit areas. Sediments contaminated with dioxin have been found in the San Jacinto River both up-river and down-river from the Tract. The complete nature and extent of the contamination of the Site will be delineated during the RI/FS.

Health Considerations ---

The primary hazardous substances documented at the Site are polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans.

Dioxins and furans from natural and anthropogenic (man-made) sources have been widely distributed throughout the environment. Because dioxins are so widespread, we all have some level of dioxins in our bodies. Studies have shown that exposure to dioxins at high enough doses may cause a number of adverse health effects. The health effects associated with dioxins depend on a variety of factors including: the level of exposure, when someone was exposed, and for how long and how often.

Possible routes of exposure include, but are not limited to: Human direct dermal contact with contaminated sediment or water; human ingestion of contaminated sediment or water; human direct dermal contact with contaminated ecological receptors; human ingestion of contaminated ecological receptors; and ecological bioaccumulation of contaminants at every trophic level of the food web.

The most common health effect in people exposed to large amounts of dioxins, in particular 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD, a dioxin congener), is chloracne. Chloracne is a severe skin disease with acne-like lesions that occur mainly on the face and upper body. Other skin effects noted in people exposed to high doses of 2,3,7,8-TCDD include skin rashes, discoloration, and excessive body hair. Exposure to high concentrations of dioxins may also induce long-term alterations in glucose metabolism, changes in hormonal levels, and changes in blood and urine that indicate liver damage.

A fish and shellfish consumption advisory (ADV-3 issued by the Texas Department of State Health Services), based on dioxin contamination in catfish and blue crabs, is in place for the Houston Ship Channel and all contiguous waters including the San Jacinto River below the U.S. Highway 90 bridge and Upper Galveston Bay north of a line from Red Bluff Point to Five Mile Cut Marker to Houston Point.

Information on the advisory can be found here:

http://www.dshs.state.tx.us/seafood/PDF2/Active/ADV-3_signed_HSCUGB.pdf

Record of Decision ---

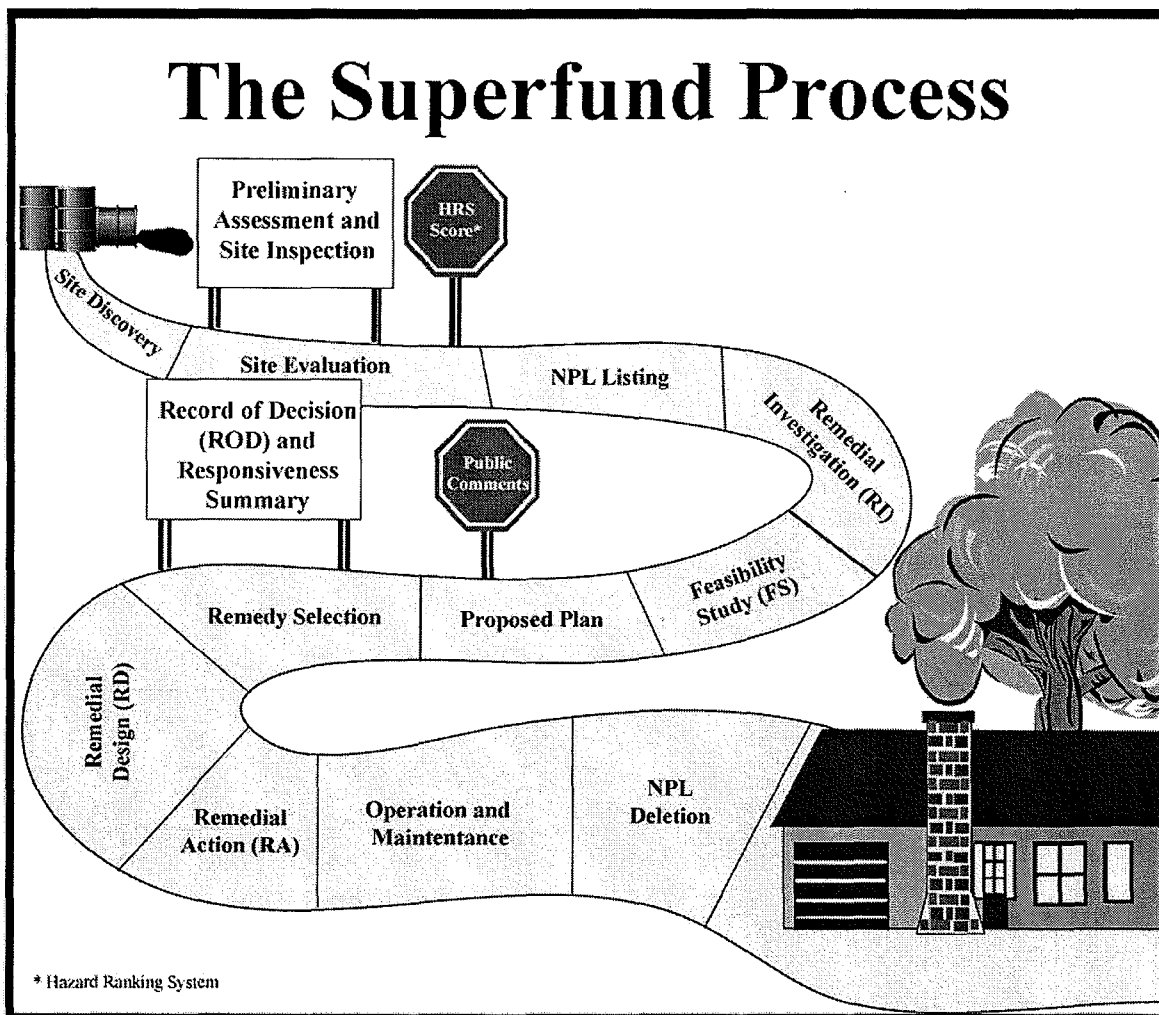
A Record of Decision (i.e., EPA's final cleanup decision) will be issued after the formal meeting to solicit public input on the Proposed Plan (see Community Involvement).

Operations and Maintenance ---

Operations and Maintenance activities will be completed after the Remedial Action.

Community Involvement

A formal meeting to solicit public input will be held on the Proposed Plan (i.e., EPA's remedy proposal). In addition, periodic updates are held at the Houston-Galveston Area Council: <http://www.h-gac.com>



Site Contacts

EPA:

Superfund Remedial Project Manager:	Stephen Tzhone	(214) 665-8409
Superfund Site Attorney:	Barbara Nann	(214) 665-2157
Superfund Regional Public Liaison:	Donn Walters	(214) 665-6483
Superfund Remedial Project Manager (Removal):	Phillip Allen	(214) 665-8516
Watershed Management (Permits):	Jim Herrington	(254) 774-6042
Watershed Management (TMDL):	Brian Mueller	(214) 665-7167

TCEQ:

Superfund Project Manager:	Luda Voskov	(512) 239-6368
Superfund Site Attorney:	Christa McLintok	(512) 239-4610
Superfund Project Manager (Permits):	Stephen Ellis	(512) 239-5337
Watershed Management (Permits):	Mark Fisher	(512) 239-4586
Watershed Management (TMDL):	Larry Koenig	(512) 239-4533

USACE:

Watershed Management (Permits):	Felicity Dodson	(409) 766-3105
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NOAA:

Federal/State Natural Resource Trustees Coordinator:	Jessica White	(214) 665-2217
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PRPs:

Project Coordinator:	David Keith Anchor QEA, LLC	(228) 818-9626
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Site Information Repository:

Pasadena Public Library 1201 Jeff Ginn Memorial Dr. Pasadena, TX 77506	(713) 477-0276
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EPA Toll Free Region 6 Superfund Information Line: (800) 533-3508

EPA Region 6 Freedom of Information Act Online Request Form:

<http://www.epa.gov/region6/6md/foia/foiaform.htm>

EPA Region 6 Contact Us Online Request Form:

<http://www.epa.gov/region6/r6coment.htm>